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Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions

New international humanitarian order

Report of the Secretary-General*

1. The General Assembly, in its resolution 53/124 of 9 December 1998, taking note of the previous reports of the Secretary-General (A/37/145, A/38/450, A/40/358 and Add.1 and 2, A/41/472, A/43/734 and Add.1, A/45/524, A/47/352, A/49/577 and Corr.1, A/51/454 and A/53/486), expressed appreciation for his continuing support to the efforts to promote a new international humanitarian order. The Assembly invited Governments to make available to the Secretary-General, on a voluntary basis, information and expertise on humanitarian issues of special concern to them in order to identify opportunities for future action. It also invited the Independent Bureau for Humanitarian Issues to continue and to further strengthen its activities in cooperation with the governmental and non-governmental organizations concerned. The Assembly requested the Secretary-General to remain in contact with Governments and non-governmental organizations, including the Independent Bureau for Humanitarian Issues, and to report thereon to it at its fifty-fifth session.

2. Since the inclusion of the item entitled "New international humanitarian order" in the agenda of the General Assembly, the Secretary-General has submitted 10 reports and transmitted to the Assembly the views of more than 60 Governments and a number of specialized agencies and non-governmental organizations. On 14 July 2000, pursuant to Assembly resolution 53/124, the Secretary-General once again requested Member States to provide to him their views and information.

3. The attention of the General Assembly is also drawn to reports of the Secretary-General submitted pursuant to its resolution 46/182 (A/50/203-E/1995/79, A/51/172-E/1996/77, E/1997/98, A/52/443 and A/53/139-E/1998/67) and subsequent resolutions on the strengthening of the capacity of the United Nations system to respond to humanitarian emergencies. In those reports, the Secretary-General addressed questions relevant to the promotion of a new international humanitarian order, which were also addressed in General Assembly resolutions 47/168, 48/57, 49/139 A and B, 50/57, 51/194 and 52/168 and Economic and Social Council resolution 1995/56.

4. In his report on the role of the United Nations in the twenty-first century (A/54/2000), the Secretary-General highlighted the need to combat impunity, to strengthen respect for international law and universally accepted norms in situations of armed conflict and to reassert the centrality of international humanitarian and human rights law. He also stressed the need to devise new strategies to meet changing needs. At the

* The footnote requested by the General Assembly in its resolution 54/248 was not included in the present submission.

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Millennium Summit, held in New York at the commencement of the fifty-fifth session of the General Assembly, the assembled Heads of State and Government emphasized the importance for the United Nations and the international community to rise to the challenges posed by contemporary global society as well as the moral and humanitarian aspects of the work of the world Organization.

5. At the Millennium Summit, the Secretary-General also pleaded on behalf of civilians and innocent victims of armed conflict and called upon States to support his ongoing efforts to strengthen their legal and physical protection. Despite the existence of a comprehensive international legal framework, civilians are increasingly being targeted to meet the military and political objectives of the belligerents. Even the most comprehensive humanitarian programmes are proving inadequate to respond to a culture of lawlessness and widespread disrespect for international norms and principles.

6. In his report to the Security Council on the protection of civilians in armed conflict (S/1999/957), the Secretary-General pointed out that despite the adoption over the past 50 years of the various conventions on international humanitarian and human rights law, hardly a day went by where we were not presented with evidence of the intimidation, brutalization, torture and killing of helpless civilians in situations of armed conflict. In that connection, the Secretary-General called for renewed efforts to promote and ensure a climate of compliance.

7. It is becoming increasingly clear that there is an urgent need not only to promote greater awareness of but also to effectively address the underlying causes that fuel and generate breaches of international law in armed conflict and to ensure adequate responses with a view to preventing or mitigating the suffering of innocent victims. There is an inherent complementarity between the two legal frameworks of international humanitarian and human rights law. In theory, the stipulations of these mutually reinforcing frameworks are universally accepted but, in practice, as the Secretary-General has repeatedly stated, the legal frameworks fall short of expectations in terms of tangible results on the ground. It is imperative, therefore, that the search for more adequate means and methods continue.

8. In establishing a framework for renewed efforts, a more sophisticated understanding is required of the complex issues that underpin the lack of respect for humanitarian norms and principles. The general public is not sufficiently familiar with international humanitarian and human rights legislation, especially in conflict-prone regions, nor are sustained efforts made in peacetime to adequately involve citizens and civil society, who are the principal stakeholders. Likewise, despite increasing emphasis on respect for human rights, their relationship with the long-term political stability and socio-economic development of the country is not adequately highlighted.

9. Against this background, the Secretary-General has asked the Independent Bureau for Humanitarian Issues to conduct an in-depth study of the implementation of international humanitarian and human rights law at the field level in crisis situations, in close consultation with the Office for Coordination of Humanitarian Affairs of the Secretariat. This initiative is based on the recognition that in facing complex humanitarian emergencies, ever growing in scale and gravity, there is an urgent need not so much to develop new international instruments but rather to ensure effective compliance with the existing ones by States as well as non-State actors. It is anticipated that the findings of the study will constitute the starting point for other initiatives that would serve to promote implementation and accountability in the context of humanitarian and human rights law or, in other words, to promote a culture of compliance.

10. The Secretary-General is convinced that a positive response by Member States to the invitation by the General Assembly, in its resolution 53/124, to make available to the Secretary-General information and expertise on humanitarian problems of special concern to them in order to identify opportunities for future action would help to develop an agenda for humanitarian action at the national, regional and international levels. The Secretary-General also suggests that Member States may wish to give particular attention in their replies to the description of efforts being undertaken in their countries to promote compliance with international humanitarian and human rights law and to confront effectively situations in which these laws are violated.

11. In keeping with the focus of his report (A/54/2000), submitted on the occasion of the Millennium Summit, and the encouraging response of

Heads of State and Government, the Secretary-General is of the view that the momentum thus gained must be further strengthened. One of the possibilities readily available to the General Assembly is to make more effective use of the agenda item relating to the promotion of a new international humanitarian order. This item has been used in the past to address new aspects of humanitarian problems, to design appropriate strategies to respond to emerging challenges, to examine basic tenets that should govern humanitarian action in cases of large-scale emergencies and to strengthen international cooperation in the humanitarian field.

12. The Secretary-General suggests that consideration of the question in the current session of the General Assembly might focus specifically on ways to effectively promote a culture of compliance with international humanitarian and human rights law.

Annex

Replies received from Governments and the Independent Bureau for Humanitarian Issues

Bangladesh

1. The Permanent Representative of Bangladesh to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to draw attention to the latter's note verbale of 14 July 2000 relating to General Assembly resolution 53/124 of 9 December 1998 on a new international humanitarian order.

2. The Government of Bangladesh is fully committed to humanitarian norms and principles and their strict adherence by all concerned. This position is reflected in general in the activities and pronouncements of the Government of Bangladesh. Bangladesh also strongly supports and takes initiatives for the formulation of international principles and legislation that are responsive to actual and potential humanitarian problems.

3. In view of the multiplicity and complexity of humanitarian agencies in many parts of the world, Bangladesh supports comprehensive and well-coordinated action on the part of the international community, in particular the United Nations, to meet adequately challenges presented by those emergencies. Bangladesh is particularly concerned about the issue of access of humanitarian personnel and about the condition of women, children and the elderly in humanitarian emergencies.

4. Bangladesh has also taken a very proactive role in the consideration of humanitarian issues as a member of the Security Council. During its Presidency of the Council in March 2000, a thematic debate was chaired by the Foreign Minister of Bangladesh on the humanitarian aspects of issues before the Security Council. A comprehensive presidential statement (S/PRST/2000/7) was issued after the debate articulating many of the positions taken by Bangladesh on humanitarian issues. During the debate in the Security Council on the protection of civilians in armed conflict, in April 2000, Bangladesh articulated its position (see S/PV.4130 and Corr.1 and Resumption 1 and Corr.1), emphasizing specific action for effective and focused coordination between and among the all major humanitarian actors, led by the United Nations, as that would have the greatest impact on the mitigation of the difficulties faced by countless innocent people in humanitarian emergencies.

Independent Bureau for Humanitarian Issues

1. The Independent Bureau for Humanitarian Issues welcomes the importance attached by the Secretary-General to the need to promote a "culture of compliance" in the field of international humanitarian and human rights law. In addition to his recent reports on the protection of civilians in armed conflict (S/1999/957) and on the role of the United Nations in the twenty-first century (A/54/2000), the Secretary-General drew attention to persistent violations of internationally recognized norms and principles and the continuing loss of life of innocent civilians in the context of General Assembly resolution 53/124 when he addressed a note to all Member States on 14 July 2000, highlighting the problem of non-compliance and drawing attention to the ongoing efforts to promote a "new international humanitarian order", with which the Bureau has been associated ever since its inception. The Bureau looks forward to close cooperation with the United Nations, notably the Office for the Coordination of Humanitarian Affairs, in this respect.

2. The Bureau deeply appreciates the trend being encouraged through the above-mentioned note by the Secretary-General to make the discussion of the agenda item relating to a new international humanitarian order more issue-specific, thus reviving the original purpose of considering under this item those humanitarian issues which are inadequately addressed under other items. It is thus that in the late 1980s, France introduced a resolution regarding humanitarian emergencies, and the Russian Federation did the same for promoting greater international cooperation in the humanitarian field. The Bureau earnestly hopes that in the context of consideration of a new international humanitarian order, Governments will wish to launch new ideas and initiatives in response to emerging humanitarian challenges. In particular, it is hoped that,

in line with the invitation of the General Assembly in its resolution 53/124, Governments will make available to the Secretary-General, on a voluntary basis, information and expertise on humanitarian problems of special concern to them in order to identify opportunities for future action. The views and expertise thus provided to the Secretary-General would constitute the building blocks of an agenda for humanitarian action, as suggested previously by the Bureau (see A/51/454), to be prepared along lines similar to those of the earlier reports of the Secretary-General dealing with agendas for peace and development.

3. Recalling the views expressed by the Government of Bosnia and Herzegovina (see A/53/486, annex) concerning basic tenets that should govern humanitarian action in emergency situations, the Bureau remains convinced that standard-setting and guidance by the General Assembly in this regard would be most useful, not only for strengthening the process of international humanitarian legislation, but also for preventing or alleviating widespread human suffering. While appreciating the ongoing efforts regarding minimum humanitarian standards, protection of civilians and humanitarian aid workers and the like, it would be most timely also to consider the adoption of a declaration based on the tenets enumerated in the above-mentioned document. The Bureau intends to continue its efforts in this regard.

4. Likewise, the Bureau has taken note of and proposes to provide support to some of the ideas mentioned in the context of the Millennium Summit, such as the need to adopt a convention concerning the rights of the disabled and an international convention on the fight against corruption. The Bureau is also of the view that adequate international legislation is required to address some recurring humanitarian problems, such as mass expulsions, forced relocation of populations and protection of internally displaced persons. These are issues first articulated in the 1980s by the Independent Commission on International Humanitarian Issues and for which the Bureau, as the follow-up mechanism established by the Commission, has continued to play its role of advocacy and action-oriented research.

5. Since its forty-second session, when the General Assembly took note of the final report of the Independent Commission and drew the attention of Governments as well as intergovernmental and non-governmental organizations to its recommendations, considerable progress has been made in their implementation at the national and international levels. However, about one third of some 160 recommendations on a wide range of subjects still await action. Similarly, in responding to the invitation of the General Assembly to provide views concerning a new international humanitarian order, more than 60 Governments have so far responded. It would be most timely if a group of governmental and non-governmental experts could be formed to analyse these views, suggestions and recommendations and encourage other Governments that have not yet done so to come forward with those views so that the future course of action can be determined. It is worthwhile noting in this regard that it is generally recognized by Governments that the term "new international humanitarian order" does not mean replacing the existing international instruments, but rather building upon them in order to respond to new humanitarian problems or to new aspects of existing problems that have been inadequately addressed. The previous reports of the Secretary-General on this question have paid attention to this aspect. Thus, the concept of a new international humanitarian order was seen as adding a multidisciplinary dimension to the collective approach to human rights and humanitarian issues (see A/40/358/Add.2).

6. A comprehensive review of existing international humanitarian legislation has been suggested in order to identify gaps that need to be filled and the duplications that should be eliminated (see A/45/524). Likewise, the importance of further codification of "third-generation human rights", namely, collective rights such as the right to life, to a safe environment and so on, was stressed. It has also been suggested that a new international humanitarian order should stress the inclusion of human rights in national constitutions in order to strengthen their protection at the national level (A/49/577 and Corr.1). This would eventually link up with the efforts to promote a culture of compliance, as suggested by the Secretary-General.

7. As for the Bureau's normal activities (see A/53/486), these are being further strengthened in the field of action-oriented research, local capacity-building, advocacy and dissemination, as well as cooperation with the United Nations system. In addition to reports on specific issues supported by various Governments, the Bureau has also acted as

implementing partner of national aid agencies as well as intergovernmental bodies such as the United Nations Development Programme, the Office of the United Nations High Commissioner for Refugees, and the like.